



[4337-15-P]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

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### Kickapoo Traditional Tribe of Texas Liquor Ordinance; Repeal and Replace

**Agency:** Bureau of Indian Affairs, Interior.

**Action:** Notice.

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**SUMMARY:** This notice publishes the Kickapoo Traditional Tribe of Texas Liquor Ordinance which repeals and replaces the Kickapoo Traditional Tribe of Texas Beer and Liquor Tax Ordinance and any and all previous statutes.

The Kickapoo Traditional Tribe of Texas Liquor Ordinance regulates and controls the possession, sale, manufacture, and distribution of liquor on the Kickapoo Traditional Tribe of Texas trust lands in conformity with the Federal laws and of the State of Texas where applicable and necessary. The enactment of this Ordinance will provide an important source of tax revenue for the continued operation and strengthening the Kickapoo Traditional Tribes of Texas government and the delivery of Tribal government services and, the economic viability of Tribal enterprises. Although, the Kickapoo Traditional Tribe of Texas Liquor Ordinance was adopted on October 1, 2018, it does not become effective until published in the *Federal Register*.

**DATES:** This ordinance shall take effect on [Insert date 30 days after publication in the FEDERAL REGISTER]

**FOR FURTHER INFORMATION CONTACT:** Ms. Sherry Lovin, Tribal Government Officer, Southern Plains Regional Office, Bureau of Indian Affairs, P.O. Box 368, Anadarko, Oklahoma, 73005; telephone: (405) 247-1534 or (405) 247-6673, fax: (405) 247-9240.

**SUPPLEMENTARY INFORMATION:** Pursuant to the Act of August 15, 1953, Public Law 83-277, 67 Stat. 586, 18 USC 1161, as interpreted by the Supreme Court in *Rice v. Rehner*, 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the *Federal Register* notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian Country. On October 1, 2018, the Kickapoo Traditional Tribe of Texas Traditional Council duly adopted the Kickapoo Traditional Tribe of Texas Liquor Ordinance by Resolution 2018-058, which will repeal, upon its effective date, the Kickapoo Traditional Tribe of Texas Beer and Liquor Tax Ordinance, Resolution No. 2011-892, which was published in the *Federal Register* on February 22, 2012 (77 FR 10547).

This notice is published in accordance with the delegated authority by the Secretary of the Interior to the Assistant Secretary – Indian Affairs. I certify that the Kickapoo Traditional Tribe of Texas Traditional Council duly adopted the Kickapoo Traditional Tribe of Texas Liquor Ordinance by Resolution No. 2018-058 on October 1, 2018.

Dated: May 17, 2019.

**Tara Sweeney,**  
*Assistant Secretary – Indian Affairs.*

## **Kickapoo Traditional Tribe of Texas Liquor Ordinance**

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**Section 1 – INTRODUCTION**

**Section 1.1 – Authority**

This ordinance is enacted pursuant to the Act of August 15, 1953, 67 Stat. 586, codified at 18 U.S.C. § 1161, by the authority of the Traditional Council enumerated in Article VII §§ (g), (h), (j), (k), and (n) of the Constitution of the Kickapoo Traditional Tribe of Texas (“KTTT”) to enact legislation and regulate activities of businesses operating on KTTT lands, and in conformity with applicable Texas State laws and all attendant agreements.

**Section 1.2 – Short Title**

This ordinance shall be known as the “KTTT Liquor Ordinance.”

**Section 1.3 – Definitions**

(A) Indian Country – The term “Indian Country” means the definition provided in 18 U.S.C. § 1151.

(B) Liquor – The term “Liquor” shall mean any alcoholic beverage including but not limited to any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever.

(C) KTTT – The term “KTTT” means the Kickapoo Traditional Tribe of Texas.

(D) KTTT Lands – The term “KTTT Lands” means the Tribe’s reservation, trust lands, and all other lands as defined in 18 U.S.C. § 1151.

(E) State – The term “State” means the State of Texas.

(F) Traditional Council – The term “Traditional Council” means the governing body of the Kickapoo Traditional Tribe of Texas, in accordance with the provisions of the KTTT Constitution.

(G) Tribe – The term “Tribe” means the Kickapoo Traditional Tribe of Texas.

#### **Section 1.4 – Purpose**

The purpose of this ordinance is to regulate and control the possession, sale, manufacture, and distribution of liquor within the KTTT’s reservation, trust lands, and all Indian Country as defined in 18 U.S.C. § 1151, in order to permit liquor sales by tribally-owned and operated enterprises and lessees and at other tribally-approved special events. The enactment of the KTTT Liquor Ordinance will increase the ability of the KTTT to control the manufacture, distribution, sale, and possession of liquor on the Tribe’s lands and will provide an important source of tax revenue for the continued operation and strengthening of the KTTT government, the delivery of tribal governmental services, and the economic viability of tribal enterprises.

#### **Section 1.5 – Jurisdiction**

The KTTT Liquor Ordinance shall apply to all lands now or in the future under the governmental authority of the KTTT, including the Tribe’s reservation, trust lands, and Indian Country as defined under 18 U.S.C. § 1151.

#### **Section 1.6 – Application of 18 U.S.C. § 1161**

By adopting the KTTT Liquor Ordinance, the Tribe hereby regulates the sale, manufacturing, distribution, possession, and consumption of liquor while ensuring that such activity conforms with applicable laws of the State of Texas as required by 18 U.S.C. § 1161 and the United States.

#### **Section 1.7 – Declaration of Public Policy & Findings**

The Traditional Council enacts this KTTT Liquor Ordinance based on the following findings:

- (A) The manufacture, distribution, possession, sale, and consumption of liquor within KTTT Lands are matters of special concern to the Tribe and the Traditional Council.
- (B) Federal law currently prohibits the introduction of liquor into or the manufacture of liquor in Indian Country, except as provided in 18 U.S.C. § 1161, except in accordance with State law and the duly enacted law of the Tribe.
- (C) The KTTT believes that it should regulate and control liquor transactions within its lands because of the many potential problems associated with the unregulated or inadequately regulated manufacture, distribution, sale, possession, and consumption of liquor. The Traditional Council finds that tribal control and regulation of liquor is necessary to protect the health and welfare of KTTT tribal citizens, to address specific concerns relating to liquor use, and to achieve maximum economic benefit to the Tribe.
- (D) It is in the best interests of the Tribe to enact this KTTT Liquor Ordinance to govern liquor transactions on its lands.

## **Section 2 – LIQUOR SALES, POSSESSION, AND MANUFACTURE**

### **Section 2.1 – Possession**

The introduction and possession of liquor shall be lawful within KTTT Lands, provided that such introduction or possession is in conformity with the laws of the Tribe and the applicable laws of the State.

### **Section 2.2 – Retail Sales**

The sale of liquor shall be lawful within KTTT Lands, provided that such sales are in conformity with the laws of the Tribe and the applicable laws of the State.

### **Section 2.3 – Manufacture**

The manufacture of liquor shall be lawful within KTTT Lands, provided that such manufacture is in conformity with the laws of the Tribe and the applicable laws of the State.

### **Section 2.4 – Age Limits**

The legal age for possession or consumption of liquor within KTTT Lands shall be the same as that of the State, which is currently 21 years. No person under the age of 21 years of age shall purchase, possess, or consume any liquor.

## **Section 3 – LICENSING**

### **Section 3.1 – Licensing**

The Traditional Council shall have the power to establish procedures and standards for tribal licensing of liquor manufacture, distribution, and sale within KTTT Lands, including setting of a license fee schedule, and shall have the power to publish and enforce such standards. For license applicants that are not tribally-owned, no tribal license shall be issued except upon showing of satisfactory proof that the applicant is duly licensed by the State. The fact that an applicant for a tribal license possesses a license issued by the State shall not provide the applicant with an entitlement or expectation to a tribal license.

## **Section 4 – ENFORCEMENT**

### **Section 4.1 – Enforcement**

(A) The Traditional Council shall have the power to develop, enact, promulgate, and enforce regulations as necessary for the enforcement of the KTTT Liquor Ordinance and to protect the public health, welfare, and safety of the Tribe, provided that all such regulations conform to and do not conflict with any applicable KTTT, Federal, or State law. Regulations enacted pursuant to the KTTT Liquor Ordinance may include provisions for suspension or revocation of KTTT

liquor licenses, reasonable search and seizure provisions, and civil and criminal penalties for violations of the KTTT Liquor Ordinance to the full extent permitted by Federal law and consistent with due process.

(B) KTTT law enforcement personnel, and security personnel duly authorized by the Traditional Council, shall have the authority to enforce the KTTT Liquor Ordinance by confiscating any liquor sold, possessed, distributed, manufactured, or introduced within KTTT Lands in violation of the KTTT Liquor Ordinance or of any regulations duly adopted pursuant to the KTTT Liquor Ordinance.

(C) The Tribal Council shall have the exclusive jurisdiction to hold hearings on violations of the KTTT Liquor Ordinance and any procedures or regulations adopted pursuant to the KTTT Liquor Ordinance; to promulgate appropriate procedures governing such hearings; to determine and enforce penalties or damages for violations of the KTTT Liquor Ordinance; and to delegate to a subordinate hearing officer or panel or to the KTTT Tribal Court the authority to take any or all of the foregoing actions on its behalf.

## **Section 5 – TAXATION**

### **Section 5.1 – Taxation**

The KTTT retains the sovereign authority to tax liquor within KTTT Lands by appropriate statute. Nothing contained in in the KTTT Liquor Ordinance is intended to, nor does it in any way, limit or restrict the Tribe's ability to impose any tax upon the sale or consumption of liquor.



## **Section 6 – MISCELLANEOUS PROVISIONS**

### **Section 6.1 – Sovereign Immunity Preserved**

Nothing contained in the KTTT Liquor Ordinance is intended to, nor does in any way, limit, alter, restrict, or waive the sovereign immunity of the KTTT or any of its agencies, agents, or officials from uncontested suit or action of any kind.

### **Section 6.2 – Conformance with Applicable Laws**

All acts and transactions under the KTTT Liquor Ordinance shall be in conformity with the laws of the Tribe and the laws of the State to the extent required by 18 U.S.C. § 1161 and with all Federal laws regarding liquor in Indian Country.

### **Section 6.3 – Effective Date**

The KTTT Liquor Ordinance shall be effective as of the date on which the Secretary of the Interior certifies it and publishes the same in the Federal Register.

### **Section 6.4 – Repeal of Prior Acts**

All prior enactments of the Traditional Council, including tribal resolutions, policies, regulations, or statutes pertaining to the subject matter set forth in the KTTT Liquor Ordinance are hereby rescinded. Specifically, the KTTT Beer and Liquor Tax Ordinance, Resolution No. 2011-982 (Mar. 30, 2011) approved by the Secretary of the Interior on February 9, 2012 (77 Fed. Reg. 10548) is repealed.

### **Section 6.5 – Amendments**

The KTTT Liquor Ordinance may only be amended pursuant to an amendment duly enacted by the Traditional Council and certification by the Secretary of the Interior and publication in the Federal Register, if required.

### **Section 6.6 – Severability and Savings Clause**

If any part or provision of the KTTT Liquor Ordinance is held invalid, void, or unenforceable by a court of competent jurisdiction, such adjudication shall not be held to render such provisions inapplicable to other persons or circumstances. Further, the remainder of the KTTT Liquor Ordinance shall not be affected and shall continue to remain in full force and effect.

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